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UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : April 13, 2005
LISZIEWICZ, et al. : Atty Docket No. RGT 9771
10/081,922 : Group 1632
Filed: 15 September 1998 : Examiner: Wilson

04/14/2005 BBONNER 00000324 10081922

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**For: Method of Delivering Genes into Antigen
Presenting Cells of the Skin**

Commissioner for Patents
And Trademarks
Washington, D.C. 20231

Phone (571) 272-0738 FAX (703) 872-9306¹

PETITION TO REVIVE:
RENEWED REQUEST FOR MEETING
RESPONSE OFFICE ACTION 04/04/2005
RCE

The Applicants petition under 37 CFR 1.137 to revive the referenced case as unavoidably abandoned, request continued examination under 37 CFR 1.114, and renew their request for a meeting with the Practice Specialist, the Supervisory Examiner, and the Examiner to discuss the defective Final Rejection bearing a mail date of 09/22/04.

The Commissioner is requested to waive the fee under 37 CFR 1.17(l) for the petition to revive because the Applicants reasonably expected withdrawal and revision of the Final Rejection. The Commissioner is authorized to charge any fees due, or credit any overage, to Deposit Account No. 50-0855. A credit card payment form is included to cover the fee for the petition and RCE.

The Final Rejection is defective as nonresponsive to an amendment filed June 7, 2004. The latest Office Action does not repair the defects in the Final Rejection. The examiner continues to maintain that the present application is a CIP of the parent patent, after being shown the exact language in the parent.

Counsel for the applicants had followed up on the written request for a meeting filed 10/22/04 by telephone with the Examiner to offer available dates and times for the meeting. The Examiner replied that a meeting would not be necessary, because a response from the


¹ This letter is being forwarded to the USPTO via the official fax number by Valerie E. Looper on April 13, 2005, signed *Valerie E. Looper*

USPTO would be forthcoming. Counsel reasonably relied upon this representation by the Examiner. The Office Action, when it came, included a Notice of Abandonment, allegedly for the Applicant's failure to respond. The Office Action, bearing a mail date of 04/04/05, does not cure the defects in the Final Rejection at least because it maintains new matter rejections that are insupportable, as pointed out in detail in an Amendment filed 06/07/04.

Counsel for the applicant notes that the Examiner acknowledges picking up the case again on April 1, 2005, and calling Counsel's office. Counsel was traveling at that time, when construction at the office site caused a series of power outages that disabled the phone message system. Counsel thanks the Examiner for his courtesy in attempting to reach Counsel's office by phone.

An initial reply to the Notice of Abandonment and Renewed Request for Meeting was faxed pursuant to the Notice of Abandonment to "the official fax number" -- (571) 273-8300 found in that paper. No confirmation fax was received, and from a series of follow-up phone calls, it appears the fax has not been received by the USPTO. No reply to the final phone call to (703) 308-9150 ext. 152 has been received to date.

Respectfully Submitted,


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